



**The Comptroller General  
of the United States**

Washington, D.C. 20548

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# Decision

**Matter of:** Perkins Plastics, Inc.

**File:** B-223641

**Date:** August 29, 1986

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## DIGEST

1. Procuring agency properly rejected the protester's bid to deliver a first article 90 days after receipt of government-furnished tools rather than 90 days after contract award as required by the solicitation, since procurement regulations require rejection of a bid that does not conform to the delivery schedule in the solicitation.

2. Protester's complaint that it included a delivery schedule in its bid that did not conform to the required schedule because of an inadequacy in the solicitation is untimely, since the alleged impropriety in the solicitation was known to the protester before bid opening and was not protested before that date.

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## DECISION

Perkins Plastics Incorporated protests the rejection of its bid submitted in response to invitation for bids (IFB) No. DLA500-86-B-0046, issued by the Defense Industrial Supply Center, Philadelphia, Pennsylvania, for production of canopy panel assemblies. Perkins Plastics submitted the low bid in response to the solicitation, but its bid was rejected because it failed to agree to the delivery schedule required by the solicitation.

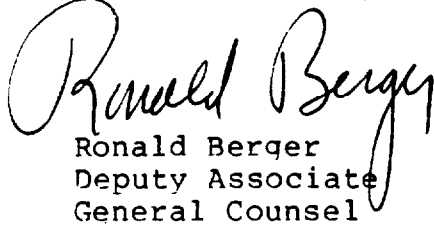
The protester states that the IFB required delivery of a first article within 90 days after contract award. Numerous government-furnished tools were required for performance of the contract, but according to Perkins Plastics, the IFB did not provide a date for delivery of the tools to the successful bidder. The firm believed that this omission constituted an "inadequacy" in the solicitation, but instead of raising the matter with the procuring agency or protesting to our Office, it stated in its bid that the first article would be

delivered 90 days after receipt of government-furnished tools. Perkins Plastics protests the rejection of its bid because the firm believes that it "met the spirit and intent of the solicitation."

The Federal Acquisition Regulation, 48 C.F.R. § 14.404-2(c) (1985), expressly requires agencies to reject "any bid that fails to conform to the delivery schedule or permissible alternatives stated in the invitation." See ASEA Electric, Inc.--Reconsideration, B-218129.2, May 17, 1985, 85-1 CPD ¶ 565. Since delivery 90 days after receipt of the tools is not the same as 90 days after contract award, the Defense Industrial Supply Center properly rejected Perkins Plastics' bid.

To the extent that the protester's underlying complaint concerns what it believes to be an "inadequacy" in the IFB, this matter should have been raised before bid opening. See Griffin-Woodhouse, Inc., B-222490, Apr. 25, 1986, 86-1 CPD ¶ 407. Protests based upon alleged improprieties in a solicitation that are apparent prior to bid opening must be filed before bid opening. 4 C.F.R. § 21.2(a)(1) (1986). Perkins Plastics' protest letter makes clear that the firm was aware of the alleged problem with the IFB at the time it prepared its bid. Thus, insofar as the protester now complains of an impropriety in the IFB, the protest is untimely.

We dismiss the protest.

  
Ronald Berger  
Deputy Associate  
General Counsel